

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

v.

FRANCISCO MARTINEZ-DIAZ

§
§
§
§
§
§
§
§

CASE NUMBER 6:18-CR-67

**FINDINGS OF FACT AND RECOMMENDATION ON GUILTY PLEA
BEFORE THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636(b), this matter has been referred by the District Court for administration of a plea of guilty under Rule 11 of the Federal Rules of Criminal Procedure.

On March 11, 2019 this cause came before the undersigned United States Magistrate Judge for a guilty plea and allocution of the defendant, Francisco Martinez-Diaz, on Count 1 of the Indictment. Count 1 charges a violation of 8 U.S.C. § 1326(a) and (b)(2)—Illegal Reentry Following Removal. After conducting said proceeding in the form and manner prescribed by FED. R. CRIM. P. 11, the Court finds that:

- a. the defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea in this cause by a United States Magistrate Judge, subject to a final acceptance and imposition of sentence by the District Judge;
- b. the defendant and the government have entered into a plea agreement which has been filed and disclosed in open court pursuant to FED. R. CRIM. P. 11(c)(2);
- c. the defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges, the maximum penalties, and the consequences of the plea,

and that the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense; and

d. the defendant understands each of the constitutional and statutory rights enumerated in Rule 11(b) and wishes to waive these rights, including the right to a trial by jury.

Recommendation

IT IS THEREFORE RECOMMENDED that the District Judge accept the Plea Agreement and the Guilty Plea of the defendant, conditioned upon a review of the presentence report, and that **FRANCISCO MARTINEZ-DIAZ** should be finally adjudged guilty of that offense.

Before the conclusion of the hearing, the undersigned announced the foregoing recommendation and notified Defendant of his right to object to this Report and Recommendation. Defendant waived that right in open court. The Government also waived its right to object to the Report and Recommendation. It is therefore **RECOMMENDED** that the Court enter an order accepting the plea of guilty, approving the plea agreement, conditioned upon a review of the presentence report, and finding Defendant guilty of Count 1 of the Indictment.

So ORDERED and SIGNED this 11th day of March, 2019.



K. NICOLE MITCHELL
UNITED STATES MAGISTRATE JUDGE